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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 TIMOTHY DESHAWN HARRIS, JR.,

CASE NO. C23-424 BHS

9 Petitioner,

ORDER

v.

10 JERI BOE,

11 Respondent.

12
13 THIS MATTER is before the Court on Magistrate Judge David W. Christel's
14 Report and Recommendation (R&R) Dkt. 27, recommending that the Court deny pro se
15 Petitioner Timothy Harris's 28 U.S.C. § 2254 habeas petition, deny a Certificate of
16 Appealability under 28 U.S.C. § 2253(c), and dismiss the case. It concludes that the state
17 court's adjudication of the two grounds raised in Harris's petition was not contrary to, nor
18 an unreasonable application of, clearly established federal law. Dkt. 27 at 17–18.

19 In 2017, Harris was charged with rape in the first degree and robbery in the first
20 degree. He represented himself in the first trial and was convicted. His conviction was
21 reversed, based on a jury instruction error. On remand, the King County Superior Court
22 set a trial date of September 9, 2020. Harris again sought to represent himself and, after a

1 *Faretta* colloquy regarding the charges, the potential penalties, and the rules he would
2 have to follow, the trial court found Harris's request equivocal, and denied his motion.
3 *See* Dkt. 27 at 2.

4 Harris's appointed attorney sought two short continuances to review the evidence
5 from the first trial and to prepare for the second. Harris again sought to proceed pro se
6 and, after a different judge held an "abbreviated" *Faretta* colloquy about the risks of
7 doing so, that judge granted Harris's motion. Harris sought to have the case dismissed for
8 a speedy trial violation, and the state court denied his motion. Harris agreed to a bench
9 trial, and he was again convicted and sentenced to a minimum of 147 months on the rape
10 count and a concurrent sentence of 54 months on the robbery count. Harris's conviction
11 was affirmed on direct appeal. *Id.* at 3 (citing *State v. Harris*, 23 Wn. App. 1036 (2022)).

12 In March 2023, Harris filed his § 2254 habeas petition, asserting that the state
13 violated his right to a speedy trial and that the colloquy before his motion to represent
14 himself was constitutionally deficient. Dkt. 9 at 7 ("The trial court's colloquy was
15 inadequate.").

16 The R&R concludes that Harris's first ground does not support habeas relief
17 because the violation of a state court speedy trial rule (60 days in Washington) is not
18 cognizable as a federal habeas action. Dkt. 27 at 5 (citing *Estelle v. McGuire*, 5012 U.S.
19 62 67-68 (1991)). Like the state court of appeals, the R&R also rejects Harris's claim that
20 his trial date violated the Sixth Amendment under *Doggett v. U.S.*, 505 U.S. 647, 651
21 (1992). Dkt. 27 at 6. The R&R concludes that the delay (from September 9, 2020, to
22 January 25, 2021) was not uncommonly long. *Id.* at 9. It concludes that, because most of

1 the delay was at Harris’s counsel’s request, the government was not “more to blame” for
2 it. *Id.* For the same reason, the R&R concludes that Harris did not assert his right to a
3 speedy trial after his motion to represent himself was denied. *Id.* at 10. And it concludes
4 that Harris was not prejudiced by any delay.

5 Harris contends he was forced to represent himself and waive his right to a jury,
6 but he was not forced to do either of those things. Harris repeatedly sought to represent
7 himself, and even after his attorney properly waived the 60-day speedy trial period so he
8 could prepare, Harris continued to seek a fast trial date. The fact that he was tried by a
9 judge and not a jury was the result of this decision, in the height of the COVID-19
10 pandemic (January 2021). *Id.* Harris alone elected to proceed with a bench trial.

11 The R&R also concludes that the *Faretta* colloquy associated with the state trial
12 court ultimately granting Harris’s motion to represent himself was not constitutionally
13 deficient. While that specific colloquy was abbreviated, Harris had already been fully and
14 recently apprised of his rights and the risks associated with self-representation weeks
15 earlier, when the same motion was denied after a full colloquy, based on Harris’s
16 equivocation. Dkt. 27 at 11–16 (citing Dkt. 24-1, *Harris*, 23 Wash. App. 1036 at 20–28).

17 The Washington Court of Appeals addressed this argument in detail, and rejected
18 it. *Id.* It noted that Harris had represented himself at his first trial, where he was
19 convicted. *Id.* He had been sentenced after that first trial to the same sentence that he
20 complained on appeal he did not understand. He filed multiple waiver-of-counsel forms
21 that confirmed he was aware of the maximum penalties he faced, and he was told by the
22 court and his then-attorney of the statutory maximum penalties he faced if convicted. *Id.*

1 Harris objects to the R&R, asserting it is “proof that the system is corrupt.” Dkt.
2 28 at 1. He asserts that anything over 70 days is uncommonly long and unconstitutional.
3 *Id.* at 1–2. He asserts that he was prejudiced because the delay allowed the prosecutor
4 time to tamper with the audio evidence and other witnesses. *Id.* His objections do not
5 address at all the R&R’s rejection of his *Feretta* claim. *Id.*

6 A district judge must determine de novo any part of a magistrate judge’s proposed
7 disposition to which a party has properly objected. The district judge may accept, reject,
8 or modify the recommended disposition; receive further evidence; or return the matter to
9 the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3). A proper objection
10 requires “specific written objections to the proposed findings and recommendations” in
11 the R&R. Fed. R. Civ. P. 72(b)(2). Objections to an R&R are not a vehicle to relitigate
12 the same arguments carefully considered and rejected by the magistrate judge. *See, e.g.,*
13 *Fix v. Hartford Life & Accident Ins. Co.*, CV 16-41-M-DLC-JCL, 2017 WL 2721168, at
14 *1 (D. Mont. June 23, 2017) (collecting cases).

15 Harris’s objections are not unlike his prior arguments, and they are not persuasive.

16 The R&R is **ADOPTED**. Harris’s § 2254 petition is **DENIED** and the case is
17 **DISMISSED**. The Court will not issue a Certificate of Appealability.

18 The Clerk shall enter a **JUDGMENT** and close the case.

19 **IT IS SO ORDERED.**

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1 Dated this 5th day of January, 2024.

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4 BENJAMIN H. SETTLE
5 United States District Judge
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